

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ALLSTATE INDEMNITY COMPANY

PLAINTIFF

VS.

CAUSE NO. 1:18-cv-400-HSO-RHW

LASHONDA JOHNSON, RENA DAVIS,
AND TRIDGET DAVIS

DEFENDANTS

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANTS’ MOTION TO
DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

COMES NOW, the Plaintiff, Allstate Indemnity Company (“Allstate”), by and through counsel, and files this Response in Opposition to Defendants’ Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. #20], and in support thereof, would show unto the Court as follows:

1. On December 4, 2016, a purported collision occurred when Lashonda Johnson (hereinafter “Lashonda”) struck a wooden utility pole with a vehicle insured by Allstate. *See Complaint for Declaratory Judgment* [Doc. #1] and *State Court Complaint, attached as Exhibit “B”* [Doc. #1-2].

2. Rena Davis (hereinafter “Rena”) and Tridget Davis (hereinafter “Tridget”) were passengers in the vehicle and assert that they were injured in the crash. *See State Court Complaint, attached as Exhibit “B” to the Complaint for Declaratory Judgment* [Doc. #1-2].

3. Rena and Tridget filed suit against Lashonda on September 26, 2018, demanding judgment for at least Two Hundred Thousand Dollars (\$200,000.00) and up to Five Hundred

Thousand Dollars (\$500,000.00).¹ *Id.*

4. Allstate filed its Complaint for Declaratory Judgment against Lashonda, Rena, and Tridget, on December 18, 2018. *See Complaint for Declaratory Judgment* [Doc. #1]. Allstate asserts that the parties have complete diversity and that the amount in controversy exceeds \$75,000.00. *Id.* Within their Motion to Dismiss, Rena and Tridget contend that the amount in controversy is not met. *See Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction* [Doc. #20].

5. The subject Allstate policy provided liability limits of Twenty-Five Thousand Dollars (\$25,000.00) per person and Fifty Thousand Dollars (\$50,000.00) per occurrence. *See Allstate Auto Policy, attached to the Complaint for Declaratory Judgment as Exhibit "A"* [Doc. #1-1].

6. One of the issues in the matter at bar is whether Allstate must indemnify Lashonda for at least Fifty Thousand Dollars (\$50,000.00) and defend the lawsuit filed against her under the terms of the policy. *Id.* Allstate contends that the amount in controversy is met considering its potential liability under the policy in addition to potential attorneys' fees, penalties, statutory damages, and punitive damages, all in excess of Twenty-Five Thousand Dollars (\$25,000.00).

7. In its Complaint, Allstate requested that the Court declare that there is no coverage for the claims made by Rena and Tridget under the subject policy, that there is no duty to defend the claims made by them against Lashonda, and that no other obligations are owed to Lashonda. *Id.*

8. Because Allstate requests that the Court declare it has no duty to indemnify or defend as a result of the subject occurrence and requests that the Court declare that there is no

¹ The State Court Complaint states that Tridget "seeks a reasonable amount . . . as much as five hundred thousand dollars (\$200,000.00)." *See* ¶ 14, *Exhibit "B", State Court Complaint* [Doc. #1-2].

coverage under this policy, the amount demanded by Tridget (\$500,000.00) is a proper measure of the amount in controversy. Accordingly, the amount in controversy is greater than \$75,000.00 for federal diversity jurisdiction to be satisfied.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Allstate Indemnity Company, respectfully requests that this Honorable Court enter an order denying the Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction [Doc. #20] and hold that federal jurisdiction exists in the subject action. The Plaintiff requests any and all other relief deemed just and equitable in the premises.

Respectfully submitted, this the 10th day of May, 2019.

**ALLSTATE INDEMNITY COMPANY,
PLAINTIFF**

BY: WILKINS PATTERSON, P.A.

BY: /s/ David E. Stovall
ROBERT R. STEPHENSON (MSB #10772)
DAVID E. STOVALL (MSB #102706)

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CERTIFICATE OF SERVICE

I, David E. Stovall, do hereby certify that I have this day caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notice to all counsel of record.

SO CERTIFIED, this the 10th day of May, 2019.

/s/ David E. Stovall
DAVID E. STOVALL